

Passed the Senate on April 22, 2015: Yeas 29, Nays 1; passed the House on May 27, 2015: Yeas 128, Nays 18, one present not voting.

Approved June 17, 2015.

Effective September 1, 2016.

## APPOINTMENT OF COUNSEL TO REPRESENT INDIGENT DEFENDANTS IN CRIMINAL CASES

### CHAPTER 858

S.B. No. 1517

#### AN ACT

**relating to the appointment of counsel to represent indigent defendants in criminal cases.**

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 1.051, Code of Criminal Procedure, is amended by amending Subsections (c), (i), and (k) and adding Subsection (c-1) to read as follows:

(c) An indigent defendant is entitled to have an attorney appointed to represent him in any adversary judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation. *Subject to Subsection (c-1)* ~~[Except as otherwise provided by this subsection]~~, if an indigent defendant is entitled to and requests appointed counsel and if adversary judicial proceedings have been initiated against the defendant, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county *in which the defendant is arrested* shall appoint counsel as soon as possible, but not later than:

(1) the end of the third working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel, *if the defendant is arrested in a county with a population of less than 250,000; or*

(2) ~~[-In a county with a population of 250,000 or more, the court or the courts' designee shall appoint counsel as required by this subsection as soon as possible, but not later than]~~ the end of the first working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel, *if the defendant is arrested in a county with a population of 250,000 or more.*

(c-1) *If an indigent defendant is arrested under a warrant issued in a county other than the county in which the arrest was made and the defendant is entitled to and requests appointed counsel, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county that issued the warrant shall appoint counsel within the periods prescribed by Subsection (c), regardless of whether the defendant is present within the county issuing the warrant and even if adversary judicial proceedings have not yet been initiated against the defendant in the county issuing the warrant. However, if the defendant has not been transferred or released into the custody of the county issuing the warrant before the 11th day after the date of the arrest and if counsel has not otherwise been appointed for the defendant in the arresting county under this article, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the arresting county immediately shall appoint counsel to represent the defendant in any matter under Chapter 11 or 17, regardless of whether adversary judicial proceedings have been initiated against the defendant in the arresting county. If counsel is appointed for the defendant in the arresting county as required by this subsection, the arresting county may seek from the county that issued the warrant reimbursement for the actual costs paid by the arresting county for the appointed counsel.*

(i) *Subject to Subsection (c-1)* ~~[Except as otherwise provided by this subsection]~~, with

*respect to a county with a population of less than 250,000, if an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have not been initiated against the defendant, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county in which the defendant is arrested shall appoint counsel immediately following the expiration of three working days after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. If adversarial judicial proceedings are initiated against the defendant before the expiration of the three working days, the court or the courts' designee shall appoint counsel as provided by Subsection (c). Subject to Subsection (c-1), in [fn] a county with a population of 250,000 or more, the court or the courts' designee shall appoint counsel as required by this subsection immediately following the expiration of one working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. If adversarial judicial proceedings are initiated against the defendant before the expiration of the one working day, the court or the courts' designee shall appoint counsel as provided by Subsection (c).*

(k) A court or the courts' designee may without unnecessary delay appoint new counsel to represent an indigent defendant for whom counsel is appointed under Subsection (c), (c-1), or (i) if:

(1) the defendant is subsequently charged in the case with an offense different from the offense with which the defendant was initially charged; and

(2) good cause to appoint new counsel is stated on the record as required by Article 26.04(j)(2).

SECTION 2. Article 15.17(e), Code of Criminal Procedure, is amended to read as follows:

(e) In each case in which a person arrested is taken before a magistrate as required by Subsection (a) or Article 15.18(a), a record shall be made of:

(1) the magistrate informing the person of the person's right to request appointment of counsel;

(2) the magistrate asking the person whether the person wants to request appointment of counsel; and

(3) whether the person requested appointment of counsel.

SECTION 3. Article 15.18, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

*(a-1) If the arrested person is taken before a magistrate of a county other than the county that issued the warrant, the magistrate shall inform the person arrested of the procedures for requesting appointment of counsel and ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the person requests the appointment of counsel, the magistrate shall, without unnecessary delay but not later than 24 hours after the person requested the appointment of counsel, transmit, or cause to be transmitted, the necessary request forms to a court or the courts' designee authorized under Article 26.04 to appoint counsel in the county issuing the warrant.*

SECTION 4. Article 26.04(a), Code of Criminal Procedure, is amended to read as follows:

(a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 15.18, 26.05, and 26.052. A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which

the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

SECTION 5. The change in law made by this Act applies only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2015.

Passed the Senate on May 5, 2015: Yeas 31, Nays 0; passed the House on May 26, 2015: Yeas 145, Nays 0, two present not voting.

Approved June 17, 2015.

Effective September 1, 2015.

---

## SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP AND THE ENFORCEMENT OF CHILD SUPPORT

### CHAPTER 859

S.B. No. 1726

#### AN ACT

**relating to suits affecting the parent-child relationship and the enforcement of child support.**

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 355.102(e), Estates Code, is amended to read as follows:

(e) Class 4 claims are composed of claims:

(1) for the principal amount of and accrued interest on delinquent child support and child support arrearages that have been:

(A) confirmed as a ~~[and reduced to money]~~ judgment or a determination of arrearages by a court under Title 5, Family Code; or

(B) administratively~~[-as]~~ determined by the Title IV-D agency, as defined by Section 101.033, Family Code, in a Title IV-D case, as defined by Section 101.034 ~~[under Subchapter F, Chapter 157]~~, Family Code; ~~[-]~~ and

(2) ~~[claims]~~ for unpaid child support obligations under Section 154.015, Family Code.

SECTION 2. Section 101.031, Family Code, is amended to read as follows:

Sec. 101.031. SUIT. "Suit" means a *legal action under this title* ~~[suit affecting the parent-child relationship]~~.

SECTION 3. Section 105.006(c), Family Code, is amended to read as follows:

(c) If a court finds after notice and hearing that requiring a party to provide the information required by this section to another party is likely to cause the child or a conservator harassment, abuse, serious harm, or injury, *or to subject the child or a conservator to family violence, as defined by Section 71.004*, the court may:

(1) order the information not to be disclosed to another party; or

(2) render any other order the court considers necessary.

SECTION 4. Section 154.187, Family Code, is amended by amending Subsections (c) and (d) and adding Subsection (i) to read as follows:

(c) An employer who has received an order or notice under this subchapter shall